STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED April 25, 2000
v	No. 214589 Eaton Circuit Court
JOSEPH EDWARD CARTWRIGHT, Defendant-Appellant.	LC No. 98-020051-FH

Before: Owens, P.J., and Murphy and White, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions following a jury trial of fleeing and eluding fourth degree, MCL 750.479a(2); MSA 28.747(1)(2), operating a motor vehicle under the influence of intoxicating liquor, MCL 257.625(1); MSA 9.2325, and improper operation of emergency lights when not responding to an emergency, MCL 257.698(5)(c); MSA 9.2398(5)(c). We affirm.

I

Defendant first argues that the trial court erred when it allowed an amendment to the information after the close of proofs. We disagree.

We review a trial court's decision to amend an information for an abuse of discretion. *People v Prather*, 121 Mich App 324, 333-334; 328 NW2d 556 (1982). As a general rule, the trial court may allow the amendment of an information at any time before, during, or after trial; and even if an objection is made and the trial court allows an amendment of the information, this Court will not reverse such a decision unless it finds that the defendant was prejudiced in his defense or that a failure of justice resulted. MCL 767.76; MSA 29.1016; *Prather*, *supra* at 333-334. A defendant is not prejudiced by an amendment to the information to cure a defect in the offense charged when the original information was sufficient to inform the defendant and the court of the nature of the charge. *People v Mahone*, 97 Mich App 192, 195; 293 NW2d 618 (1980).

Here, defendant was originally charged with the improper use of an emergency light contrary to MCL 257.603; MSA 9.2302, which is punishable as a misdemeanor under MCL 257.901; MSA

9.2601. The amendment of the charge at trial changed Count III to a violation of MCL 257.698(5)(c); MSA 9.2398(5)(c). Both of these provisions make it a misdemeanor to use emergency lights at times other than when responding to an emergency call. We thus conclude that the original information was sufficient to inform defendant of the nature of the charge and the trial court did not abuse its discretion.

II

Defendant also argues that his conviction of fleeing and eluding a police officer in violation of MCL 750.479a; MSA 28.747(1)(2) must be vacated because there was insufficient evidence to support the charge. Again, we disagree.

We review claims of insufficiency of the evidence by viewing the evidence in a light most favorable to the prosecutor and determining whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, modified on other grounds 441 Mich 1202 (1992). When ruling on a motion for directed verdict of acquittal, a trial judge must consider the evidence presented by the prosecution up to the time of the motion, view that evidence in a light most favorable to the prosecution, and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

The statute under which defendant was convicted provides:

> (1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the vehicle, extinguishing the lights of the vehicle, or otherwise attempting to flee or elude the police or conservation officer. This subsection does not apply unless the police or conservation officer giving the signal is in uniform and the vehicle driven by the police or conservation officer is identified as an official police or department of natural resources vehicle.
>
> (2) Except as provided in subsection (3), (4), or (5), an individual who violates subsection (1) is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both. [MCL 750.479a(2); MSA 28.747(1)(2).]

Here, the elements in dispute are whether defendant knew of the order to stop and whether he refused to obey it. While defendant is correct that the time that elapsed between the officers' activating their vehicle's overhead lights and defendant stopping his car was not long, the evidence was nevertheless sufficient to permit the jury to determine whether defendant willfully failed to obey the officers' direction to stop by attempting to elude the officers. Defendant did not immediately stop his

vehicle. Rather, he went through a stop sign and then made a turn. He then passed at least one driveway and drove up another driveway all the way to the end of the driveway. He then jumped out of the car, ran and hid. His actions after stopping the car may be considered as evidence of his intent before stopping the car. The jury could have reasonably concluded that although the distance and the time were short, defendant nevertheless failed to stop in willful disobedience of an order to stop, and in an attempt to elude the officers.

Affirmed.

/s/ Donald S. Owens
/s/ William B. Murphy
/s/ Helene N. White